

Jefferson County, Clerk

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

JAN 23 2008

U.S. DISTRICT COURT  
WESTERN DIST. KENTUCKY

UNITED STATES OF AMERICA

INDICTMENT

vs.

NO.

3:08CR-10-S

18 U.S.C. § 1341

18 U.S.C. § 1343

18 U.S.C. § 2

18 U.S.C. § 981

18 U.S.C. § 982

28 U.S.C. § 2461

**DAVID G. ROSE**

The Grand Jury Charges:

COUNT 1-15

1. On or about and between May 1, 2004, and April 1, 2005, in the Western District of Kentucky, Jefferson County, Kentucky, and elsewhere, **DAVID G. ROSE** (hereinafter, **ROSE**), the defendant herein, aided and abetted by others known and unknown to the grand jury, devised and intended to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises from individuals investing in two oil and natural gas well development projects promoted by enTerra Energy, L.L.C, to wit, the GOOD (the Great Oklahoma Oil Deal) and L-O-T (Louisiana-Oklahoma-Texas) oil and gas well development projects.

2. It was part of the scheme and artifice to defraud that **ROSE** made, and caused to be made, false and fraudulent pretenses and representations to investors in the GOOD and L-O-T oil and

gas well development projects promoted by enTerra Energy, LLC, to wit, that enTerra Energy, L.L.C. does not and would not engage in "front loading," that is, deducting from every investment dollar received on these two projects up to 18%, as profit for enTerra Energy, L.L.C. and to pay administrative expenses incurred by the company, such as syndication costs, marketing expenses, printing, and, legal fees. **ROSE** made and caused to be made to investors in the GOOD and L-O-T oil and gas well development projects the false and fraudulent representation and pretense that enTerra Energy will pay such expenses as those outlined above using the company's independent financial resources and not use investors' monies to pay such expenses, intentionally creating and reinforcing the false impression that investors' monies would be expended only toward the development of the oil and gas wells described within each project. In truth and in fact, as **ROSE** well knew at the time investments were solicited for these two oil and gas well projects, monies received by enTerra Energy, LLC from investments in the GOOD and L-O-T oil and gas well development were expended for numerous purposes other than solely for the development of the oil and gas wells which comprised the GOOD and L-O-T projects, including paying salaries and bonuses to employees of enTerra Energy, making cash withdrawals, paying legal fees, and making expenditures for the benefit and gain of individuals, including relatives and friends of **ROSE**, which

payments were unrelated to the business of the development of the oil and gas wells which comprise the GOOD and L-O-T projects.

3. It was a further part of the scheme and artifice to defraud that ROSE made, and caused to be made, false and fraudulent pretenses and representations to investors in the GOOD and L-O-T oil and gas well development projects promoted by enTerra Energy, LLC, to wit, that enTerra Energy had entered into joint ventures and partnerships with major oil and gas companies, including Citgo Petroleum Corporation, Samson International, Hunt Oil, and Texaco. In truth and in fact, as ROSE well knew at the time investments were being solicited for these two oil and gas well projects, enTerra Energy, LLC had entered into no joint ventures or partnerships with any of the aforementioned oil and gas companies for development of the oil and gas wells which made up the GOOD and L-O-T oil and gas well projects.

4. In furtherance of the scheme and artifice to defraud described in paragraphs 1 through 3 above, and in execution thereof, the following checks, among other items, were caused to be delivered on or about the dates shown below from investors in the GOOD and L-O-T oil and gas well projects to the offices of enTerra Energy, LLC in Louisville, Kentucky, by the United States Postal Service and private or commercial interstate carrier:

<u>Count:</u>	<u>Date:</u>	<u>Amount Invested:</u>	<u>Investor:</u>	<u>Project Invested In:</u>
1	5/28/04	\$49,000	J.B.	GOOD
2	5/18/04	\$9,000 & \$15,000	J.G.	GOOD GOOD
3	9/01/04	\$14,875	J.G.	L-O-T
4	5/28/04	\$12,500	W.J.	GOOD
5	7/07/04	\$16,750 \$32,000	W.J W.J	GOOD GOOD
6	9/29/04	\$29,750	W.J.	L-O-T
7	6/01/04	\$24,500	R.L.	GOOD
8	10/25/04	\$14,875	R.L.	L-O-T
9	6/01/04	\$22,000	R.R.L.	GOOD
10	10/25/04	\$29,750	J.S.	L-O-T
11	12/02/04	\$44,625	J.S.	L-O-T
12	5/21/04	\$24,500	J.T.	GOOD
13	7/01/04	\$24,500	J.T.	GOOD
14	9/21/04	\$17,850	J.T.	L-O-T
15	10/25/04	\$71,400	J.T.	L-O-T

All in violation of Title 18, United States Code, Section 1341.

The Grand Jury further charges:

COUNTS 16-21

5. The Grand Jury realleges and incorporates by reference all matters and allegations set forth in paragraphs 1 through 3 above.

6. On or about and between May, 1, 2004, and April 1, 2005, in the Western District of Kentucky, Jefferson County, Kentucky, and elsewhere, **DAVID G. ROSE** (hereinafter, **ROSE**), the defendant herein, aided and abetted by others known and unknown to the grand jury, devised and intended to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises from individuals investing in two oil and natural gas well projects promoted by enTerra Energy, L.L.C, to wit, GOOD (the Great Oklahoma Oil Deal) and L-O-T (Louisiana-Oklahoma-Texas) oil and gas well development projects. For the purpose of executing the scheme and artifice to defraud and the scheme to obtain money and property by means of false and fraudulent pretenses and representations, as more fully described in paragraphs 1 through 3 above, **ROSE** caused wire communications to be transmitted in interstate commerce, to wit, telephone calls, on or about the dates shown below, from enTerra Energy's office in Louisville, Kentucky, to individuals located in states shown below for the purpose of discussing with these individuals matters related to their investments in the GOOD and L-O-T oil and gas well development projects:

<u>Ct</u>	Phone Call Placed From EnTerra Energy, <u>Lou. KY. to:</u>	<u>Date</u>	<u>Investor</u>	Amount <u>Invested</u>	<u>Project</u>
16	Greenville, OH	6/03/04	E.M.	\$49,000	GOOD
17	Lone Wolf, OK	5/11/04	J.S.	\$24,500	GOOD
18	Lone Wolf, OK	9/15/04	J.S.	\$12,250	GOOD
19	Larkspur, CA	6/21/04	J.R.M.	\$12,250	GOOD
20	Larkspur, CA	8/27/04	J.R.M.	\$14,875	L-O-T
21	Larkspur, CA	10/15/04	J.R.M.	\$14,875	L-O-T

All in violation of Title 18, United States Code, Sections 1343 and 2.

The Grand Jury further charges:

Count 22  
(FORFEITURE)

7. The Grand Jury realleges all the allegations contained in paragraphs 1 through 6 of this Indictment as set forth fully above.

8. As a result of the offenses charged in Counts 1 through 21 of this Indictment, **DAVID G. ROSE**, the defendant herein, shall forfeit to the United States all right, title, and interest in any and all property, real or personal, constituting, or derived from, the proceeds defendant obtained, directly or indirectly, and any property involved in and facilitated the violations of Title 18, United States Code, Sections 1341 and 1343, including but not limited to the following specifically described property:

B. Money Judgment.

A sum of money equal to \$6,631,255 in United States currency which represents the proceeds of the offenses charged in Counts 1 through 22 of the Indictment.

If the above-described property, as a result of any act or omission of **DAVID G. ROSE**

- A. cannot be located upon exercise of due diligence;
- B. has been transferred or sold to, or deposited with a third party;
- C. has been placed beyond the jurisdiction of the court;
- D. has been substantially diminished in value;
- E. has been commingled with other property which cannot be derived without difficulty;

it is the intent of the United States to seek forfeiture of any other property of **DAVID G. ROSE** up to the value of the above-described property, pursuant to Title 18, United States Code, Section 982(b)(1), incorporating Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Sections 981, 982, and title 28 United States Code, Section 2461.

A TRUE BILL.

1/23/08

FORWARDED

10  
3  
DAVID L. HUBER  
UNITED STATES ATTORNEY

JRL:dm

UNITED STATES OF AMERICA v. DAVID G. ROSE

P E N A L T I E S

Counts 1-21: NM 20 yrs./NM \$250,000/both/NM 3 yrs. Supervised Release (each count)

Count 22: Forfeiture

N O T I C E

ANY PERSON CONVICTED OF AN OFFENSE AGAINST THE UNITED STATES SHALL BE SUBJECT TO SPECIAL ASSESSMENTS, FINES, RESTITUTION & COSTS.

SPECIAL ASSESSMENTS

18 U.S.C. § 3013 requires that a special assessment shall be imposed for each count of a conviction of offenses committed after November 11, 1984, as follows:

Misdemeanor: \$ 25 per count/individual	Felony: \$100 per
count/individual	
\$125 per count/other	\$400 per count/other

FINES

In addition to any of the above assessments, you may also be sentenced to pay a fine. Such fine is due immediately unless the court issues an order requiring payment by a date certain or sets out an installment schedule. You shall provide the United States Attorney's Office with a current mailing address for the entire period that any part of the fine remains unpaid, or you may be held in contempt of court. 18 U.S.C. § 3571, 3572, 3611, 3612

Failure to pay fine as ordered may subject you to the following:

1. INTEREST and PENALTIES as applicable by law according to last date of offense.

For offenses occurring after December 12, 1987:

No INTEREST will accrue on fines under \$2,500.00.

INTEREST will accrue according to the Federal Civil Post-Judgment Interest Rate in effect at the time of sentencing. This rate changes monthly. Interest accrues from the first business day following the two week period after the date a fine is imposed.

PENALTIES of:

- 10% of fine balance if payment more than 30 days late.
- 15% of fine balance if payment more than 90 days late.

2. Recordation of a LIEN shall have the same force and effect as a tax lien.
3. Continuous GARNISHMENT may apply until your fine is paid.

18 U.S.C. §§ 3612, 3613

If you **WILLFULLY** refuse to pay your fine, you shall be subject to an **ADDITIONAL FINE** of not more than the greater of \$10,000 or twice the unpaid balance of the fine; or **IMPRISONMENT** for not more than 1 year or both.  
18 U.S.C. § 3615



RESTITUTION

If you are convicted of an offense under Title 18, U.S.C., or under certain air piracy offenses, you may also be ordered to make restitution to any victim of the offense, in addition to, or in lieu of any other penalty authorized by law. 18 U.S.C. § 3663

APPEAL

If you appeal your conviction and the sentence to pay your fine is stayed pending appeal, the court shall require:

1. That you deposit the entire fine amount (or the amount due under an installment schedule during the time of your appeal) in an escrow account with the U.S. District Court Clerk, or

2. Give bond for payment thereof.

18 U.S.C. § 3572(g)

PAYMENTS

If you are ordered to make payments to the U.S. District Court Clerk's Office, certified checks or money orders should be made payable to the Clerk, U.S. District Court and delivered to the appropriate division office listed below:

LOUISVILLE: Clerk, U.S. District Court  
106 Gene Snyder U.S. Courthouse  
601 West Broadway  
Louisville, KY 40202  
502/625-3500

BOWLING GREEN: Clerk, U.S. District Court  
120 Federal Building  
241 East Main Street  
Bowling Green, KY 42101  
270/393-2500

OWENSBORO: Clerk, U.S. District Court  
126 Federal Building  
423 Frederica  
Owensboro, KY 42301  
270/689-4400

PADUCAH: Clerk, U.S. District Court  
127 Federal Building  
501 Broadway  
Paducah, KY 42001  
270/415-6400

If the court finds that you have the present ability to pay, an order may direct imprisonment until payment is made.

FORM DBD-34  
JUN.85

No. \_\_\_\_\_

**UNITED STATES DISTRICT COURT**

Western District of Kentucky  
Louisville Division

**THE UNITED STATES OF AMERICA**

vs.

**DAVID G. ROSE**

**INDICTMENT**

**Title 18, U.S.C. §§ 1341; 1343; 2; 981; 982**

**Title 28, U.S.C. § 2461:**

**Mail fraud; Wire fraud; Forfeiture.**

*A true bill.*

*1/23/08*  
\_\_\_\_\_  
*Foreman*

*Filed in open court this 23rd day,*

*of January A.D. 2008.*

\_\_\_\_\_  
*Clerk*

*Bail, \$*  
\_\_\_\_\_  
\_\_\_\_\_